

Omay Ford  
Reg. No. 23785-038  
FMC Devens  
P.O. Box 879  
Ayer, MA 01432-0879

FILED  
IN CLERKS OFFICE

2005 MAR -8 P 12:39

U.S. DISTRICT COURT  
DISTRICT OF MASS.

March 4, 2005

Clerk's Office  
U.S. District Court (D. MA),  
One Courthouse Way  
Boston, MA 02210

05-10431

Re: Ford v. USA  
Cr. No. 01-10351-JLT

Dear Madam/Sir Clerk:

Enclosed for filing is:

Motion under Title 28 U.S.C. § 2255

Certification of mailing.

Kindly file. Please note that I am only able to send one original because the Law Library at FMC Devens does not have a copier that copies legibly. I am mailing this in to meet the one-year jurisdictional deadline.

In am pro se in this matter and if this presents a problem, will you kindly let me know?

Sincerely,

Omay Ford



c: file

PETITION UNDER 28 USC § 2255 TO VACATE, SET ASIDE, OR CORRECT

AO 243 (Rev. 2/95)

SENTENCE BY A PERSON IN FEDERAL CUSTODY

<b>UNITED STATES DISTRICT COURT</b>	District <u>Massachusetts</u>
Name of Movant <u>Omay Ford</u>	Prisoner No. <u>23785-038</u> <b>FILED</b> Case No. <u>01-10351-JLT</u> <b>CLERKS OFFICE</b>
Place of Confinement <u>FMC Devens, P.O. Box 879, Ayer, MA 01438-0879</u>	
UNITED STATES OF AMERICA	V. <u>Omay Ford</u> DISTRICT OF MASS. (name under which convicted)

**05 10431**  
**MOTION**  
**MAGISTRATE JUDGE** *MBB*

1. Name and location of court which entered the judgment of conviction under attack U.S. District Court, D. Massachusetts
2. Date of judgment of conviction April 24, 2004
3. Length of sentence 120 months imprisonment, 5 years supervised release
4. Nature of offense involved (all counts) 21 U.S.C. §§ 846, 841(a)(1)
5. What was your plea? (Check one)
 

(a) Not guilty ☐  
 (b) Guilty ☒  
 (c) Nolo contendere ☐

If you entered a guilty plea to one count or indictment, and not a guilty plea to another count or indictment, give details:

N/A
6. If you pleaded not guilty, what kind of trial did you have? (Check one)
 

(a) Jury ☐ N/A  
 (b) Judge only ☐
7. Did you testify at the trial?  
 Yes ☐ No ☐ N/A
8. Did you appeal from the judgment of conviction?  
 Yes ☒ No ☐

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9. If you did appeal, answer the following:

U.S. Court of Appeals, 1st Circuit

(a) Name of court \_\_\_\_\_

(b) Result Affirmed(c) Date of result March 5, 2004

10. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications, or motions with respect to this judgment in any federal court?

Yes ☐ No ☒

11. If your answer to 10 was "yes," give the following information:

(a) (1) Name of court N/A

(2) Nature of proceeding \_\_\_\_\_

(3) Grounds raised \_\_\_\_\_

(4) Did you receive an evidentiary hearing on your petition, application or motion?

Yes ☐ No ☐

(5) Result \_\_\_\_\_

(6) Date of result \_\_\_\_\_

(b) As to any second petition, application or motion give the same information:

(1) Name of court \_\_\_\_\_

(2) Nature of proceeding \_\_\_\_\_

(3) Grounds raised \_\_\_\_\_

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ITY

(4) Did you receive an evidentiary hearing on your petition, application or motion?

Yes ☐ No ☐

N/A

(5) Result \_\_\_\_\_

(6) Date of result \_\_\_\_\_

(c) Did you appeal, to an appellate federal court having jurisdiction, the result of action taken on any petition, application or motion?

(1) First petition, etc.

Yes ☐No ☐

N/A

(2) Second petition, etc.

Yes ☐No ☐(d) If you did *not* appeal from the adverse action on any petition, application or motion, explain briefly why you did not:

N/A

12. State *concisely* every ground on which you claim that you are being held in violation of the constitution, laws or treaties of the United States. Summarize *briefly* the *facts* supporting each ground. If necessary, you may attach pages stating additional grounds and *facts* supporting the same.

**Caution:** If you fail to set forth all grounds in this motion, you may be barred from presenting additional grounds at a later date.

For your information, the following is a list of the most frequently raised grounds for relief in these proceedings. Each statement preceded by a letter constitutes a separate ground for possible relief. You may raise any grounds which you may have other than those listed. However, you should raise in this motion all available grounds (relating to this conviction) on which you base your allegations that you are being held in custody unlawfully.

Do not check any of these listed grounds. If you select one or more of these grounds for relief, you must allege facts. The motion will be returned to you if you merely check (a) through (j) or any one of the grounds.

(a) Conviction obtained by plea of guilty which was unlawfully induced or not made voluntarily or with understanding of the nature of the charge and the consequences of the plea.

(b) Conviction obtained by use of coerced confession.

- (c) Conviction obtained by use of evidence gained pursuant to an unconstitutional search and seizure.
- (d) Conviction obtained by use of evidence obtained pursuant to an unlawful arrest.
- (e) Conviction obtained by a violation of the privilege against self-incrimination.
- (f) Conviction obtained by the unconstitutional failure of the prosecution to disclose to the defendant evidence favorable to the defendant.
- (g) Conviction obtained by a violation of the protection against double jeopardy.
- (h) Conviction obtained by action of a grand or petit jury which was unconstitutionally selected and impaneled.
- (i) Denial of effective assistance of counsel.
- (h) Denial of right of appeal.

A. Ground one: Ineffective Assistance of counsel at sentencing.

Supporting FACTS (state *briefly* without citing cases or law)

My attorney did not argue my criminal history correctly,  
and did not file proper objections to the PSR.

B. Ground two: Ex Post Facto violation in light of Booker.

Supporting FACTS (state *briefly* without citing cases or law)

I am subject to a harsher standard of sentencing and my appeal  
standard has changed. There are factors that the Court may  
now consider that were forbidden under the mandatory guidelines,  
in light of United States v. Booker, Slip.Op, No. 04-104,  
decided January 12, 2005.

C. Ground three: Any and all future claims that may accrue from new  
cases or my vacating my past convictions.

Supporting FACTS (state *briefly* without citing cases or law)

Under Brackett v. United States, 270 F.3d 60 (1st Cir. 2001),  
a litigant must use their crystal ball and put any and all  
claims in their first § 2255 and ask the Court to hold this  
part of the motion in abeyence.

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D. Ground four: N/A

Supporting FACTS (state *briefly* without citing cases or law) \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

13. If any of the grounds listed in 12A, B, C, and D were not previously presented, state *briefly* what grounds were not so presented, and give your reasons for not presenting them: \_\_\_\_\_

N/A

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

14. Do you have any petition or appeal now pending in any court as to the judgment under attack?

Yes ☐ No ☒

15. Give the name and address, if known, of each attorney who represented you in the following stages of judgment attacked herein:

(a) At preliminary hearing Lois M. Lewis

74 Fuller Terrace, West Newton, MA 02465

(b) At arraignment and plea \_\_\_\_\_

\_\_\_\_\_

(c) At trial \_\_\_\_\_

\_\_\_\_\_

(d) At sentencing \_\_\_\_\_

\_\_\_\_\_

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(e) On appeal I don't remember.

(f) In any post-conviction proceeding \_\_\_\_\_

N/A

(g) On appeal from any adverse ruling in a post-conviction proceeding \_\_\_\_\_

N/A

16. Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court and at approximately the same time?

Yes ☒ No ☐

17. Do you have any future sentence to serve after you complete the sentence imposed by the judgment under attack?

Yes ☐ No ☒

(a) If so, give name and location of court which imposed sentence to be served in the future: \_\_\_\_\_

N/A

(b) Give date and length of the above sentence: \_\_\_\_\_

(c) Have you filed, or do you contemplate filing, any petition attacking the judgment which imposed the sentence to be served in the future? N/AYes ☐ No ☐

Wherefore, movant prays that the Court grant petitioner relief to which he or she may be entitled in this proceeding.

\_\_\_\_\_  
Signature of Attorney (if any)

I hereby certify under Title 28 U.S.C. § 1746 that I placed this motion in the prison legal mailbox for mailing, postage prepaid first class to: U.S. District Court, (D. Mass), Boston, MA on 3/4/05.

I declare under penalty of perjury that the foregoing is true and correct. Executed on

March 4, 2005

(Date)

\_\_\_\_\_  
Signature of Movant